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05-CR-05147-ORD

MAGISTRATE JUDGE

FILED

JUN 22 2005

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CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

) NO. CR05-5147

vs.

KATHRYN D. KINZER,

Defendant.

) FINDINGS AND ORDER ACCEPTING
DEFENDANT FOR DEFERRED
PROSECUTION, APPROVING
TREATMENT PLAN, AND DIRECTING
DEFENDANT TO TAKE TREATMENT
AS PRESCRIBED

) (Clerk's Action Required)

THIS MATTER, coming on for hearing this 12th day of September, 2005, upon Defendant's Petition for Deferred Prosecution; Defendant appearing in person and by her attorney, WILLIAM R. MICHELMAN; the United States of America being represented by Cpt. Jennifer, Special Assistant United States Attorney; the Court having examined and incorporated into the record Petitioner's Petition and Statement in support of deferred prosecution, the evaluation and treatment report prepared by Army Substance Abuse Program, and the files and records herein; and the Court being fully advised in the premises, does now make and enter the following:

FINDINGS AND ORDER ACCEPTING
DEFENDANT FOR DEFERRED PROSECUTION - 1

LAW OFFICE OF
WILLIAM R. MICHELMAN, INC., P.S.
A PROFESSIONAL SERVICE CORPORATION

SUITE 8
7512 BRIDGEPORT WAY WEST
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(253) 582-3387

ORIGINAL

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2 **I. FINDINGS OF FACT**
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4 A. On or about the 17th day of December, 2004, Petitioner was charged with the
5 offenses charged in the Information. These offenses occurred as a direct result of
6 alcoholism/chemical dependency problems.

7 B. The Petitioner suffers from an alcohol problem and is in need of treatment;

8 C. The probability of similar misconduct in the future is great if the problem is not
9 treated;

10 D. That Petitioner is amenable to treatment;

11 E. An effective rehabilitative treatment plan is available to Petitioner through Army
12 Substance Abuse Program, an approved treatment facility as designated by the laws of the State
13 of Washington, and the Petitioner agrees to be liable for all costs of this treatment program;

14 F. That Petitioner agrees to comply with the terms and conditions of the program
15 offered by the treatment facility as set forth in the attached diagnostic evaluation from Army
16 Substance Abuse Program, and that Petitioner agrees to be liable for all costs of this treatment
17 program;

18 G. That Petitioner has knowingly and voluntarily stipulated to the admissibility and
19 sufficiency of the facts as contained in the written police reports attached to the Statement of
20 Petitioner filed herewith.

21 H. That Petitioner has acknowledged the admissibility of the stipulated facts in any
22 criminal hearing or trial on the underlying offenses held subsequent to revocation of this Order
23 Granting Deferred Prosecution and that these reports will be used to support a finding of guilt;

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25 From the foregoing FINDINGS OF FACT, the Court draws the following:
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2 **II. CONCLUSIONS OF LAW**
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4 A. That the above-entitled Court has jurisdiction over the subject matter and
5 Petitioner, KATHRYN D. KINZER, in this case;

6 B. That Petitioner's Petition for Deferred Prosecution meets the requirements of
7 RCW 10.05 et. seq.;

8 C. That the diagnostic evaluation and commitment to treatment meets the
9 requirements of RCW 10.05.150;

10 D. That Petitioner is eligible for deferred prosecution.

11 **III. ORDER**
12

13 Having made and entered the foregoing FINDINGS OF FACT and CONCLUSIONS OF
14 LAW, it is hereby

15 ORDERED that the defendant is accepted for deferred prosecution. The prosecution of
16 the above matter is hereby deferred for five (5) years pursuant to RCW 10.05 et. seq., upon the
17 following terms and conditions:

18 A. Petition shall be on probation for the deferral period and follow the rules and
19 regulations of probation;

20 B. Petitioner shall enroll in and successfully complete the two-year treatment
21 program recommended by Army Substance Abuse Program according to the terms and
22 conditions of that plan as outlined in the diagnostic evaluation, a true copy of which is attached
23 to the Statement of Petitioner and incorporated herein by reference. Petitioner shall not change
24 treatment agencies without prior Probation approval;

25 C. The treatment facility, Army Substance Abuse Program, shall file with the United
26 States Probation Office status reports of Petitioner's compliance with treatment, monthly during
27 the first year of the deferred prosecution period and every three (3) months during the second
28 year. The Court may increase the frequency of these reports at its discretion;

FINDINGS AND ORDER ACCEPTING
DEFENDANT FOR DEFERRED PROSECUTION - 3

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2 D. Petitioner shall notify U.S. Probation within 72 hours of any residence change.
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4 E. Petitioner shall abstain during the deferred prosecution period from any and all
5 consumption of alcoholic beverages and/or nonprescribed mind-altering drugs;

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7 F. Petitioner shall not operate a motor vehicle on the public highways without a valid
operator's license and proof of liability insurance sufficient to comply with the state laws on
8 financial responsibility;

9
10 G. Petitioner shall be law abiding and shall not commit any alcohol/drug related
offenses or other criminal offenses during the period of deferral;

11 H. Petitioner shall notify U.S. Probation within 72 hours of being arrested,
questioned, or cited by Law Enforcement;

12 I. In the event that Petitioner fails or neglects to carry out and fulfill any term or
condition of her treatment plan or violates any provision of this Order or any rule or regulation of
13 her probation officer, upon receiving notice, the Court shall hold a hearing to determine why the
14 Defendant should not be removed from deferred prosecution and prosecuted for the offenses
15 charged;

16 J. In the event the Court finds cause to revoke this deferred prosecution, the
17 stipulated police reports shall be admitted into evidence, and Petitioner shall have her guilt or
innocence determined by the Court;

18 K. That the Statement of Petitioner for Deferred Prosecution shall remain sealed, and
19 all subsequent reports of documents relating to her treatment information shall be sealed, to
20 maintain confidentiality of Petitioner's treatment information;

21 L. That the Department of Licensing be notified of this order accepting the Petitioner
22 for deferred prosecution;

23 M. Upon proof of Petitioner's successful completion of five years deferral period in
24 this Order, the Court shall dismiss the charges pending against Petitioner.

LAW OFFICE OF

WILLIAM R. MICHELMAN, INC., P.S.
A PROFESSIONAL SERVICE CORPORATION

FINDINGS AND ORDER ACCEPTING
DEFENDANT FOR DEFERRED PROSECUTION - 4

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2 N. Additional conditions: _____
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DONE IN OPEN COURT this 12th day of September, 2005.


Karen L. Stinson
UNITED STATES MAGISTRATE JUDGE

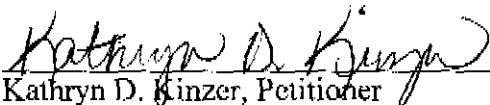
11 Presented by:

12 WILLIAM R. MICHELMAN, INC., P.S.
13 

14 William R. Michelman, WSBA #6803
15 Attorney for Petitioner

16 I have received a copy of the foregoing Order of Deferred Prosecution. I have read and
17 understand its contents, and agree to abide by the terms and conditions set forth herein.

18 Dated: 6/9/05


Kathryn D. Kinzer, Petitioner

20 I certify that a copy of this signed Order was mailed to the subject treatment facility, on
21 September 13, 2005. The U.S. Probation Office was also furnished a
copy of this Order.

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23 Clerk

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**FINDINGS AND ORDER ACCEPTING
DEFENDANT FOR DEFERRED PROSECUTION - 5**

LAW OFFICE OF
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